Supreme Court, U.S.
FILED

CASE NO: 01-16250

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IN THE SUPREME COURT OF THE UNITED STATES

PEPI SCHAFLER

Petitioner

v

RICHARD J. SPEAR

Respondent

On Petition for a Writ of Certiorari
to the Ninth Circuit Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

Pepi Schafler, BA, MSSS, JD, PhD
642 Preakness Drive
Walnut Creek, California, 94596
Telephone: 925-938-8743
Telefax: 925-928-6026

Statement of issue.

A chapter 7 case filed on behalf of petitioner on March 26, 1996, in the state of Maryland , was closed by the court on July 7, 1996. The former trustee had abandoned any all possible assets of the estate. On April 27, 1998 , a scorned and angry ex husband contacted the former trustee, asked him to reopen the closed case, to harass petitioner and offered him a bribe to do so. The former trustee agreed, and on May 7, 1998 the bankruptcy court reopened the two year old closed and discharged case. On the advise of counsel the case was changed to a chapter 13. Just before the final approval of the plan , a familial tragedy occurred in California, which required petitioner's immediate relocation to Northern California . The court in Maryland did not cooperate in speeding up the process of the final signatures on the plan. Therefore, trusting that a court is a court requested that the case be transferred to the Oakland , California bankruptcy court, and it was done. What petitioner encountered in the Oakland bankruptcy court is : a corrupt abusive, ignominious , mafia like enterprise , peopled by depraved lawless predators , modeled after the Third Reich. They extorted and petitioners assets and divided them among themselves, despite there being no party in interest with standing. There were four bankruptcy court decisions that were appealed. Two were consolidated and the Court of Appeals combined and wrote a 50 word decision about all of it. This petition for a writ of certiorari is about that decision, covering it all.

Questions presented

1. May a corrupt malicious, hired Article I bankruptcy court judge , the ignoble R.. Newsome extort, seize, steal and convert petitioner's lawfully held assets , not on behalf of a party in interest, but fraudulently and criminally "gift a couple of coconspirator cronies with them, and does this represent Constitutional violations and an illegal "bill of attainder"?

2. Did the Ninth Circuit Court of Appeals violate petitioner Constituional rights to substantive and procedural due process, and her property rights?

3. Did the Court of Appeals review the facts and applicable law de novo, or just affirm the lower courts?

4. Did the Court of Appeals improperly deny petitioner's right to oral argument as per F.R.A.P. Rule 34?

5. Is there an identifiable party in interest that moved this proceeding forward, or was it the corrupt predatory opponents that felt that under the circumstances petitioner is easy prey, and she can be robbed at will, and pursued it ?

6. Did the Court of Appeals identify any fact finding or evidentiary proceedings or mini trial, given that the Court is well versed in the Constitutional requirements of due process and equal protection, as well as the bankruptcy rules?

7. Since this Honorable Court has held several times that every person is entitled to an unbiased judge, has this been observed in the present matter on any level, or has judicial bias permeated the proceedings?

8. Should petitioner's extorted and stolen assets -stolen by the "bankruptcy mafia" be returned to her as promptly as possible?

9. Did the Court of Appeals err in stating that "even if they held that the chapter 7 assets were abandoned , the reopening was legitimate, and is this statement frivolous ,imprecise, almost silly because it represents a two year time lag and does this represent general bias by the Court of Appeals, and a "who cares "attitude?

10. Did the Court of Appeals find legitimacy in the reopening which was by a former trustee without standing, acting on behalf of someone without standing, who promised him a bribe, and he lied to and deceived the tribunal i.e. the bankruptcy court into reopening?

11. Was it error or abuse of discretion by the District Court not to do any review and just affirm the bankruptcy court?

12 .In the original chapter 7 petition, which is the gravaman of this matter, were all of petitioner's assets or potential assets scheduled?

13. Since the former Maryland trustee Scott Field Esq. had the duty ad opportunity to investigate the present matter, did he do so and represent to the court that he had done so?

14. Were all the assets , most of which were exempt under Maryland law abandoned by the trustee pursuant to 11 USC # 554 (a) after the case was closed by the court?

15. Did the former trustee have standing to seek reopening of the case, two years after his dismissal, other than the promise of a bribe?

16. Did the former trustee Field deceive the court when he sought reopening, deceiving by omission and commission of fraud?

17. Did the bankruptcy court in Maryland even superficially inquire regarding standing to seek reopening, and on who's behalf?

18. Was the bankruptcy court in Maryland uncooperative when asked to hasten the chapter 13 confirmation process because petitioner's life required immediate relocation to California ?

19. Did the bankruptcy court in Maryland act on perjured information by the former trustee and before transfer reconvert the reopenend case to chapter 7?

20. Did the Oakland bankruptcy court and judge Newsome follow the law, the rules, and respect petitioners Constitutional rights after the case was transfered ?

21. Did judge Newsome have jurisdiction in this matter , or did he create it for himself through deceit, debauchery, and fraud, to extort petitioner's assets?

22. Does a "bankruptcy mafia " exist in the Oakland bankruptcy court consisting of an abusive corrupt judge Newsome, a "phantom private trustee" named Richard Spear, an attorney who really a procurer-broker of thousands of bankrupcty cases annually and has been for more than 30 years , whose name is put on the cases and he resells them to other attorneys, and in the instant matter sold petitioner's case to someone named Dennis Davis, considered to be the most unethical ignoble deceitful attorney in the san Franciseco bay area, and they are judge Newsome's favored and favorites?

23. Was petitioner who was new in the area , and in deep personal despair, without counsel, a match for this mafia?

24. When petitioner realized her mistake in trusting in the judicial system and her erroneous belief that a "court is a court" , and not knowing that some courts are dens of corruption and predatory depravity, did she therefore attempt to exit the bankruptcy system by filing a Motion to Withdraw the chapter 7 petition and vacate the discharge , both proceedings provided for in the bankruptcy rules?

25. Were these motions ever heard, or scheduled to be heard?

26 Isn't that corrupt hypocrisy and abuse of the legal process and his job by the ignoble judge Newsome because , although there was no wrongdoing on petitioner's part he tried to allege some, therefore should she and the creditors not have been put back in the position they were before the filing on March 26, 1996?

27. Was petitioner doubly victimized, by being falsely accused by the bounty hunters of some unspecified or unproven wrongdoing, but not permitted to exit the system to enable the ignoble judge Newsome and the cronies to extort and steal her assets for their own use?

28. Was there ever an evidentiary proceedings in this matter or a trial, despite petitioner's repeated requests for same, and the demand of bankruptcy rule 11 USCA # 5010 that the first proceeding in a reopened case must be a fact finding hearing to determine the validity of the reopening, and whether a trustee is called for?

29 Do the rules and the law on reopened cases overwhelmingly call for nothing be put back even in a legitimate estate without a a fact finding proceeding?

30. Did the ignoble judge Newsome violate petitioners Constitutional rights provided for in the Fifth and Fourteenth Amendments to same, by interfering with her property rights, denying her equal protection substantive and procedural due process?

31. At the first encounter with the ignoble judge Newsome did he inform petitioner that he would take away her assets and give them to the cronies ?

32. Did he make the same statement at the last encounter and boast about it with an "I told you I would" , at which he gave all her assets to the chosen crony bounty hunters?

33. Since petitioners assets were not only abandoned by the former trustee in Maryland pursuant to the bankruptcy rules when the case was closed, and are also exempt pursuant to Maryland State law, which has opted out of the federal exemption system, did the courts starting with the ignoble Newsome through the Court of Appeals violate the rules of another state, despite the Erie Doctrine?

34. Was petitioner unequivocally entitled to her assets which are exempt under Maryland law, regardless of the corrupt dissent?

35 Throughout this reign of terror evocative of Nazi Germany, did petitioner have, or was she able to obtain counsel?

36. Despite it being a crime did, the ignoble Newsome, along with the other coconspirators of the bankruptcy mafia suborn the hiring of a stalker burglar cum investigator, who stalked petitioner, burglarized her residence stealing all her personal records and creating mayhem in her life?

37 Did the lengthy proceedings in this matter that wasted judicial - therefore public resources and in the process prostitute the laws of the republic have any other intended purpose or outcome other than stealing petitioner's assets and giving them to the cronies Spear and Davis and whether Newsome benefits petitioner does not yet know?

38. Did judge Newsome a abuse his authority and the tenets of his job?

39.. In their ignominy did judge Newsome and the bounty hunters Spear and Davis generate false documents to create a fraudulent entitlement to petitioner's assets and call them "fees".?

40. Was judge Newsome's seizure, extortion and conversion of petitioner's assets an unconstitutional bill of attainder against her?

41. Did judge Newsome have jurisdiction in this matter or did create his own?

42. On whose behalf was Newsome he acting i.e. who had standing to seek relief, and what was the controversy- as this Honorable Court had repeatedly articulated as necessary for a claim to go forward, other than his conspiracy with the cronies to steal petitioner's assets?

43. If the ignoble judge Newsome had any evidence of wrongdoing on petitioner's part should she not immediately had all the constitutional protection that attach to an accused rather than his ex parte extorting and stealing of her property?

44. Did Newsome, and his cronies Davis and Spear select petitioner to hunt, terrorize and rob her because like all depraved predators they concluded that she is vulnerable and can be exploited?

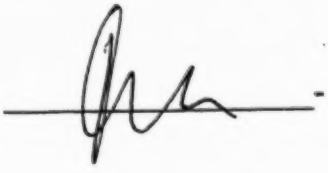
45. Is judge Newsome the subject of numerous misconduct complaints to the Judicial Council of the Ninth Circuit , as well as through the appellate process by attorneys and pro se litigants , alleging denial of constitutional rights , abusiveness, not letting people speak, making decision ex parte in his bunker and coming to work to read them, deceit, disrespect for persons and the judicial process, "practicing law" continuously on behalf of those he favors, preventing attorneys to represent their clients, with at least one of the complaints being a reported one, and does the Ninth Circuit Judicial Council inexplicably protect him by covering up his misconduct, and therefore not meeting their responsibilities?

46. Are there complaints about Spear and Davis, a reported case about Davis perpetrating a continuous a gross, brazen and shameless fraud and deceit on the San Francisco District Court until he was caught?

47. Was petitioner who was new to California , having just arrived, in grave personal distress , without counsel, not a perfect prey for this depraved bankruptcy mafia, therefore should not all their actions in this matter simply vacated and maybe hold them accountable

Rule 29.6 Corporate Disclosure Statement

Petitioner hereby declares that there are no corporate interests involved in this matter.



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Jurisdiction by this Honorable Court for a Writ of Certiorari

Article III Section 2 of the United States Constitution vests the Supreme Court with the judicial power and jurisdiction to all cases and controversies in law and equity , and appellate jurisdiction to same. Pursuant to 28 USC # 1651 (a) the Supreme Court and all courts established by an Act of Congress may issue all writs necessary and appropriate in aid of their respective jurisdictions and agreeable to the principles and the usage of the law. Pursuant to 28 USC #1254 (i) cases in the Court of Appeals may be reviewed by Writ of Certiorari granted upon the petition of any party to a civil or criminal case, before or after rendition of judgment, and as the Honorable Justice Stevens said in *Florida v Rodriguez, 469 US 1, (1984)* " as the court of last resort in the federal system , we have supervisory authority and therefore must occasionally perform pure error correcting functions in federal litigation".

Decisions in the lower courts:

The Ninth Circuit Court of Appeals Panel denied rehearing en banc on May 19, 2003 , from a decision by the Panel dated March 27, 2003 . The District Court in San Francisco , Judge M. Chesny affirmed the bankruptcy court on April 18, 2001, and August 15, 2002.The BAP affirmed the bankruptcy court on October 15, 2001. The decisions appealed were made by judge Randall Newsome on December 18, 2000 and April 25, 2001.

Statement of facts.

On March 26, 1996 a chapter 7 bankruptcy petition was filed by a well known Rockville Maryland law firm on petitioner's behalf . in the bankruptcy court in Greenbelt Maryland. At the time petitioner was a resident of Bethesda ,Maryland. This followed having been a long time resident of Amherst New York, and nine years of being the plaintiff in action for divorce in Buffalo New York. The attorneys prepared all of petitioners schedules, and all the debts , assets , potential assets , exempt assets and obligors to petitioner were scheduled . (App. 1) Among the relevant assets scheduled are: a) the ex spouse as an obligor, as he still owed petitioner more than $60.000, b) a claim against a bank for conversion of two checks in amount of $96.500 with petitioner's name on them , and honoring them when presented by the former spouse, without petitioner's endorsement, which claim had been dismissed and was appealed, and came to be referred to as the "bank claim" and c) a trust for the ultimate benefit of petitioner's children from a prior marriage created in April 1986, which held petitioner's IRA, exempt under Maryland law from the bankruptcy estate, an apartment in Florida that was part of the marital distribution also exempt under Maryland law from the bankruptcy estate as a homestead exemption, and some of the marital distribution funds. All these assets in the trust named the " Max Family Trust "were tax exempt under the rules of the Internal Revenue Service, as they were all part of the marital distribution. A trustee named Scott Field -an attorney, member of the DC bar- was appointed by the US trustee, and the 11 USC # 341 creditors meeting was held on May 1, 1996. Petitioner was questioned by Mr. Field , and later that day he filed the interrogatories regarding "the bank claim " that he had inquired about (App. 2) On the same day of May, 1 1996 he also filed a "No asset report" (App. 3) in which he represented to the court that he had done a very thorough and diligent investigation in to this case, made no distribution, and wishes to be dismissed as there is nothing further for him to do in this matter. On May 31, 1996 the Appellate Division 4th Dept. of New York State Supreme Court located in (App 4) Rochester New York, reinstated the bank claim, in a published decision. On July 7, 1996 the bankruptcy court in Greenbelt Maryland discharged the debts, and closed the case, and dismissed the former trustee Field. (App. 5) The assets were all abandoned by the former trustee Field pursuant to 11 U.S.C. #554, #554 (a) (e). He had already signaled his intent to do so when he filed the no "asset report."

Since the former trustee abandoned the assets, he never contacted the former spouse , who is scheduled as an obligor, therefore they never met. The former spouse an attorney ,scorned and angry that despite all the obstacles he placed in petitioner's path ,she managed to divorce him anyway, also he had been disbarred for awhile for stealing client's funds -in addition to petitioner's, -and ordered to pay restitution to the New York Sate Attorney Grievance Committee in amount of almost $100.000 because the committee had compensated the clients, contacted former trustee Field on April 25, 1998 almost two years after the case was closed and told him some lies regarding the bank claim, (App 6) that it was improperly scheduled , and promised him a bribe if he sought the reopening of the case to harass the petitioner. Field of course had a couple of options to verify this information and not act reptilian ,and to tell the truth that he no longer had any standing. But he did not. The idea of a bribe was too seductive. On April 28, 1998 former trustee Field Esq. filed a motion to reopen the closed case. (App. 7) Almost every word in that motion is a lie to the court and a fraud., which leads one to wonder: does the court not care, is the judge inattentive and feeble, or do some people have privileges. He represented himself as the "trustee" a brazen lie by an attorney to the court He was not concerned that bankruptcy court judge Kier would say: "didn't I dismiss you from this case two years ago, so who reinstated you"? "Or if you are the trustee how come you are seeking reopening?" Being a trustee implies an open case? how come you are seeking reopening? In his motion Field said the reopening is on behalf of an "interested party" ; in bankruptcy reopening may only be on behalf of a creditor or a debtor. The scorned former husband was neither. The court, judge Kier never asked about it. Field stated there are <u>additional</u> unscheduled assets of the estate. He was silent about the abandoned estate, was silent about not having contacted the former spouse two years before On May 7, 1998 the bankruptcy court reopened the case (App 8)"to administer the <u>additional assets</u> are property of the estate. This was all ex parte of course, and petitioner was quite angry at the reptilian former spouse, and having to be in his presence again, involved in legal proceedings with him. 11 U.S.C. # 5010 holds that in a reopened case nothing gets put back into the estate, and no trustee gets hired until there is an evidentiary hearing., and the court ordered it, but Field was rehired on June 24, 1998 by the US trustee, "a good friend" and it was made retroactive to May 7, 1998. (App 9) .

The rehiring of former trustee Field Esq. is certainly evidence that when he sought the reopening he had no standing, and lied to the court about being "the trustee". After consultation with Washington D.C. counsel who explained that these sort of " reopenings " without standing and without an aggrieved party are thinly disguised ambushes(extortions)for money, who advised to either pay him "going away" money or convert to chapter 13 to be free of him. The latter was the option chosen and a conversion motion was filed on August 28, 1998, (App 10) granted by the court on October 28. 1998.(App11) While the plan and details were being put in place, a personal tragedy had arisen in petitioner's life that required her immediate relocation to Northern California. Petitioner's only sibling an older brother, had been unexpectedly diagnosed with a fatal illness in a terminal state and petitioner wanted to be near him, and help his wife and child save or prolong his life. By December 31, 1998 petitioner had to be gone from Maryland, and therefore sought the assistance from the bankruptcy court to speed up the confirmation process by that date. (App.12) The court refused. (App 13). Thereafter, desperate to leave , believing a "court is a court", a belief cultivated and nurtured in society since the beginning of civilization and that judging whether biblical, tribal or the judging of the head of state , or pies at a country fair, or the judges at Nuremberg, and based on petitioner's experience with the courts, in a professional role or a litigant, petitioner requested that for the final confirmation the case be transferred to Northern California , as it would be very burdensome to have to return to Maryland at this time. Inexplicably , the bankruptcy court in Maryland scheduled a hearing in January20, 1999 and one on February 25,1999 both of which petitioner could not attend and the court excused her appearance. In an ex parte proceeding on February 25, 1999, Scott Field, using the false information given him by the ex husband ,lied to and deceived the court again and alleged to the bankruptcy court - judge Kier that petitioner had not properly scheduled the bank claim, and ask the court to vacate the order converting to chapter 13 and return to the reopened chapter 7, all this without petitioner being present, without her knowledge , or prior notice that an ex parte proceeding would be held. The court obliged him , reconverted to the reopened chapter 7, and forwarded the case to the Oakland California, bankruptcy court on or about March 5 1999. Petitioner's sibling died on March 14, 1999.

The Oakland corrupt , abusive, lawless "bankruptcy mafia" Randall R. Newsome, Richard J, Spear and Dennis. D Davis The depraved predatory acts can not be overstated.

Voluntarily transferring this case to California was the single worst decision of petitioners life. Petitioner trusted the judicial system and government which has a responsibility for the well being of all citizens to protect them from bad food, bad medications, bad physicians, bad roads, but apparently does not protect from monsters that are on the public payroll. These monsters are not tall, green and slimy, but rather are short, balding wear business suits and black robes.

Although the decision by Judge Kier was wrong, abusive, violated petitioner's Constitutional rights to due process and equal protection and needed to be appealed, petitioner was in no position to do so because she was emotionally too distraught, and could barely breathe. But that was just the signal for the predators: Newsome Davis and Spear to exploit this prey. That is what depraved predators do. (App 14) They jump on the prey.

As soon as the case arrived in the office of the bankruptcy court, it was renumbered and was renamed . It was put in Randall Newsome's "in " box. Immediately **Richard J. Spear 's** name was placed on it "as trustee" Richard Spear , an attorney is not a trustee: he is an" illusionary or phantom trustee" He is a broker, procurer, salesman -some use a less gentile title- of bankruptcy cases He has an insider connection , and for more than 30 years his name has been placed on 2000 -2500 cases per year, about 200 per months , and a career total easily of 60.000-75.000 bankruptcy cases wherein the estates were plundered by him and his associates. C.F.R. 58.3 calls for (App 15) a private trustee to serve for one year only , and the skills and education requirements are modest , thus 25% of the population would qualify, and even though the code and rules call for equal opportunity in hiring, how can this be met when one person has a special section in the bankruptcy clerk's office, a government space for his private business. On information that is credible though not yet verified by petitioner, Richard Spear's favoritism and control over the cases and his access is not random, is not "sex, drugs and rock & roll" because he is 78 years old, and avuncular, but rather it is **money: bribery.** He lies well ,which must be a requisite for his involvement in the process. Spear parcels out the bankruptcy cases -sells them is more appropriate to a few favorite

lawyers and law firms who do work on the case if required, but first and foremost they assure him the trustee fee, allegedly kickbacks, and generally plunder the estate He personally does nothing further. Just collects money. He has become a multimillionaire from his "trustee" selling and brokering business. Even though the bankruptcy rules 11 USC #5010 calls for an evidentiary proceeding in a reopened , case before any other arrangements ,it did not happen here. Spear sold this matter to an attorney named **Dennis D. Davis ,** who is considered the most unethical , deceptive and disliked attorney in the San Francisco Bay area. His mendacity and abusive ignominy knows no bounds. He is an equal opportunity crook, brazen lying and deceiving the courts as freely as anyone else. In a case titled *Re: Boyd 243 B.R. 756 (9th Cir 2000)* which was an appeal from a bankruptcy court to the District Court in San Francisco and District Court Judge Breyer , in which the debtors claimed as exempt a $750.000 retirement annuity, and Davis's client objected to same, but Davis neglected to file the objection to same within the required 30 days. But he proceeded anyway knowing he is committing fraud and deceit of the opponent and on the court. There were negotiations, motions, settlement talks, Davis accused the Boyd's of fraud, while his was the biggest most brazen and shameless, until accidentally uncovered by opponent's counsel. The court was outraged , of course dismissed Davis's case instantly and berated him and called him unfit to practice law .But Davis is the favored and house favorite of judge Randall Newsome of the bankruptcy court, and has full reign of the bankruptcy court. The ignoble judge **Randall R. Newsome** is a depraved predator unfit to be called judge, unfit to be employed in that position. There are numerous complaints about him from attorneys and pro se litigants to the Judicial Council of the Ninth Circuit, which makes excuses for him It is as if there is trove of excuses all ready to go, depending on the substance of the complaint , albeit all with the same purpose: cover up for him. One is a reported case *.In Re: Charge of Judicial Misconduct" 62 F 3rd, 320 (9th Cir 1995).* The complainant an attorney, law professor, author named Morgan King, with whom petitioner had spoken. The substance of the complaint as reported: that Newsome is abusive, practices law, argues for the side who is his favorite, does not let others speak, did not let this attorney speak to represent his client, uses legitimate bankruptcy estate money to reward those he likes and more.

The complaint also describes how judge Newsome gossips with other judges about persons he does not like. There is no denial of the allegations as being untrue, there was just a lot of diversionary explanations for his conduct. Newsome acknowledged that he did not let counsel speak and present his argument, because " he knew what counsel was going to say" What nerve, what impudence ! He is a mind reader as well: he knows what counsel is going to say before he says it. Isn't it his job , isn't Newsome being paid to listen? Yes-but he has chosen no to. And as to the complaint that Newsome has violated the Code of Judicial Ethics, the Judicial Council had a rather silly excuse by saying :"well judicial ethics are nice , and aspirational". The Judicial Council needs to take seriously the complaints about Newsome. Had the Council done so in 1994, when the complaint was filed, Newsome might not have been there to conspire with Davis to, bully , insult , hunt and terrorize petitioner. to enable him to steal her assets.

After the present case was sold by Richard Spear to Dennis Davis in early March 1999, Davis wrote petitioner a letter asking her to turn over all her assets to him. In early April in a telephone conversation, Davis informed petitioner, that all her assets belong to him. To petitioner's comment that this is a decision for the court to make. His response: "I speak for the court" . While noticing that Newsome had not scheduled the "5010" evidentiary proceeding, petitioner prepared a motion to reclose the case,(App. 16)which was to serve as an evidentiary hearing , because the case was reopened almost one year earlier and the 5010 hearing had not taken place. It was filed on April 21,1999 When petitioner told Davis about this motion, he said "he was certain that this motion would not be scheduled." He was right it was never scheduled. Newsome' and Davis's conspiracy to steal petitioner's assets was adverse to facts. judge Newsome had discussed with Davis ex parte whether to schedule the motion, and they agreed not to. the agreement regarding petitioner's assets had already been made. petitioner informed Davis that she was emotionally drained, would travel to the east coast to be with family and would not be available until early or mid June, Davis responded with "I don't want to wait" There was no pretense: this was about him, petitioner's assets , Newsome and Spear as the silent coconspirator. In petitioner's absence Davis prepared four motions all dealing with the assets.

Petitioner did not have counsel had not had an opportunity to seek counsel, and could not respond to those motions. In the interim Davis also scheduled a hearing for June 2, 1999 to order petitioner to turn over all her records. Petitioner had returned briefly to her home and found all these pleadings, realizing that her simple request to transfer the final stages of a case in a court have brought her in the clutches of an abusive mafia like gang, notified the court she would not be available on June 2nd for a hearing, and also filed a motion pursuant to 11 USC 707 to dismiss the chapter 7 petition (App 17) and a motion pursuant to 11 USC 727 to vacate the discharge (App18).By happenstance there was a substitute judge for this hearing :a judge named Montali of the San Francisco bankruptcy court who asked Davis why petitioner was not there, and Davis replied "he had no idea". Judge Montali also mentioned the motion to dismiss , to which Davis replied : "that petitioner does not understand (App. 19) she does not mean that" That was the last time there was any attention paid to these motions. They were not scheduled, they were not granted , they were not denied to make them appealable. Newsome and Davis needed to keep petitioner in the system, to be able to extort and steal her assets. On June 10, 1999 petitioner wrote a letter to judge Newsome,(App. 20) complaining of her lack of access to the court system, -retrospectively this seems incredibly naive-while Davis's access is unlimited. Petitioner had at the time not comprehended the endemic sleaze and corruption of this court and the cronies. He never responded, and nothing ever changed. At the first hearing in judge Newsome's presence , several events transpired which were repeated at each proceeding. Judge Newsome practices law, and speaks for Davis. He makes every argument for him, and throughout this endless ordeal, petitioner has never heard Davis speak a full sentence. Newsome only speaks to his cronies, and so favored. To the rest he sneers. To petitioner he sneered, informing her that he intends to take her assets and give them to Davis. Petitioner was stunned-who would acknowledge something like that in advance. Petitioner was not clear whether he was under the influence of illegal drugs or alcohol, or has a personality disorder. In the months that followed nothing changed: petitioner was never heard, the demand for her assets and records continued.

Petitioner was unable to obtain counsel, even though she had contacted 10 different attorneys , -all male because judge Newsome is sexist and especially abusive and demeaning to women.- and all declined. One was president of the Bar Association section on bankruptcy in one of the bay cities. Once explained, petitioner understood that these people did not want to get involved with this "gang" of Newsome, Davis, and Spear. Obviously they were local and it could interfere with their earning their living. Petitioner who was the prey for the predators and bounty hunters, sought assistance from other courts ,but as this Honorable Court is aware, once he created jurisdiction for himself, there would be no other intervention. Newsome and Davis hired a burglar -stalker cum investigator who trespassed and burglarized petitioners home, and stole all her personal records. Later on when she needed some, she had to send a printer to copy her own records. He spent many hours stalking petitioner(App 21) The burglar alleged that he had taken the records out of the trash to invoke the curbside rule, which was a lie by the burglar and judge Newsome sneered at petitioner saying that "the burglar took the records out of a dumpster at petitioner's apartment, another lie by Newsome. Petitioner resides in a single family home, a private community (App22) where there are no apartments, no municipal services, no trash at the curb, the services are all paid for privately by the property owners, the trash is picked up from an attached to the house, utility shed.. There is one street in and out , the rest are cull de sacs . Being on the premises is limited to residents and invitees. Petitioner has reason to believe that it was arranged that the burglar would use an electronic devise to open the garage door .A judge even if only a hired one, an Article I judge participated in the hiring of a burglar, and covering up the crime! Petitioner filed a police report with the Walnut Creek police department, which contacted Davis, who told the detective that petitioner had taken bankruptcy money, so he had to do it. Newsome demanded that petitioner hand over to Davis all her assets in the Max Family Trust which held petitioner's IRA, exempt under Maryland law which is the law of the case, also the title to a vacation apartment in Florida, also exempt under Maryland law as a homestead, and some remnants of the marital distribution. These were all tax exempt or tax deferred assets.

It must be remembered that there had been no fact finding or evidentiary proceeding , no appellate review, just Newsome and Davis saying these assets belong to Davis, and petitioner was the victimized prey.

On January 28, 2000 Davis told petitioner that if she paid him and paid Spear, they would "go away" , and this way petitioner would be able to keep some money for herself. It did not happen. Since petitioner did not hand over the assets when the crooks demanded , in June 2000 she was lured into Newsome's presence , detained by him overnight . On July 1, 2000 she turned over securities which at the time had a value of $ 450.000-$475.000 to Davis. (App. 23) . While petitioner attempted to deposit them in some fiduciary institution, Newsome would not agree. The reason is rather transparent: he did not want petitioner to have an opportunity for an interim legal challenge. Thereafter in a chance encounter with an attorney who was the opponent to Davis, in the massive attempted fraud by Davis on him and the District Court Judge Breyer *In Re: Boyd 243 B.R. 756 (9th Cir. 2000)*, he agreed to represent pettitioner. But petitioner now lacked the funds for a retainer . In a motion to Newsome he asked him to release some petitioners assets to him for legal fees, to which Davis - after all he had been promised all of them by Newsome- objected and Newsome denied. That was the end of counsel. The only way out was a motion for summary judgment. Newsome would surely decide in favor of the cronies, but it would provide a way out of his proximity. In October 20, 2000 petitioner filed the motion for summary judgment and Davis cross moved. As expected on December 18 , 2000 Newsome came prepared and read some of his inaccurate drivel, and held that the assets in the name of The Max Family Trust belong to Spear and Davis. (App 24) To cover up their extortion, theft and perfidy , Newsome and Davis always referred to it as the "estate". Petitioner had frequently objected to that, because it was a lie and a cover up for extortion , but Newsome sneered some words of denial. When petitioner had unraveled the corrupt arrangements surrounding Spear, Davis and Newsome she was shocked, and naively could not believe that Newsome is a knowing participant. When she confronted him with it , Newsome sneered a response stating that " everybody around here does it".Petitioner asked Newsome to recuse, Davis said nice things about him, he did not go away , retaliated against petitioner, and used $2.200 of petitioner's money to pay Davis for defending him.

This decision was appealed to the District Court, where judge Chesny affirmed, It was appealed to the Ninth Circuit Court of Appeals. Cases **No: 01-16250 & 01-16270.** Thereafter petitioner was in Newsome's proximity once more: on January 30, 2001 at which time he uttered a threat against her. The event was a "pretend" inquiry into a lie, deceit and professional ethics violation -not the first one to be sure by Davis . Davis told Newsome it was not him, but a 38 year old woman partner, an attorney for a dozen years. Newsome said "oh, it was just a mistake by a young associate" This was all prearranged, and she did not answer relevant questions anyway. It was of no consequence another cover up. Davis could have said "the tooth fairy did it." Hearing the threat from Newsome, and recalling a warning offered to petitioner by two attorneys walking to the parking garage : " to watch out for Newsome, he is evil and has the guns literally and figuratively, and can cause major harm", petitioner has not been in his proximity ever again. . For a brief time thereafter petitioner had appellate counsel, who was harassed by the opponents. They could only victimize petitioner for their own benefit if she is without counsel, and there is no witness. Newsome proved to be abusive to counsel as well. Under Maryland law on exemptions an IRA is exempt from bankruptcy and there is a homestead exemption. The same is true under California law, but Maryland law supersedes as the law of the case. Counsel moved for this money exemption over $275.000 -. (App 27) actually the IRA was significantly more . Not unexpected opponent Newsome denied . It was appealed to the District Court and again judge Chesny affirmed. It was appealed to the Court of Appeals **No: 02-16695.**The Florida apartment titled in the name of trust is exempt under the homestead exemption. But since petitioner has been paying all the expenses for it, like mortgage, taxes , condominium fees, insurance and more , petitioner sought an administrative fee. The apartment is rented occasionally, which ameliorates the costs somewhat, but still if the opponents are to have the apartment, in the year 2001 this administrative fee amounted $44.500. Not unexpected Newsome denied, and it was appealed to the Bankruptcy Appellate Panel , which affirmed . Thereafter it was appealed to the Court of Appeals.
Case **No: 01-17516.**

Petitioner's opponent scheduled a hearing for April 25, 2001 and submitted an interim fee award request for $289. 745 . This fee request covered about 120 pages. The fee request is deliberately spread out to be confusing so that a reader would not notice that it is all creative writing, and they had to fill up pages to provide a justification and alibi for Newsome. There is triple, quadruple billing for the same thing , and it is all fake. There is about (App 28) $150.000 for a trial.-there was none. Abut $50.000 for tracing, and on and on such outrage. Newsome used petitioner's money to pay Davis about $7.500 for keeping the ex husband informed about petitioner. Petitioner has had numerous orders of protection against him - he had been arrested in Florida for stalking and harassing , here he could be informed without risk. Since there are still issues with the former spouse, he or his counsel would contact Davis, saying: what do you have on her that I can use?". Spear who had spent about 80 minutes in this matter, claimed $50.000. The stalker-burglar was also paid with petitioner's money. At the April 25, 2001 hearing, petitioner was fortunately represented by counsel. Listening from an ante room petitioner was shocked how abusive, and dismissive judge Newsome was to counsel, and his plain despicable demeanor. Newsome continuously argued on behalf of the opponent. The opponent was silent. Newsome repeated to counsel that the first time he saw petitioner, he told her that her assets would be given to the cronies. Even though petitioner's fee request was not calendared for that day ,Newsome said he had already decided it. he arrived with the decision. Counsel argued about the law and the legal requirements notice before and a hearing: Newsome made fun of that; eventually he said ok. submit papers by May 16, 2001 regarding the administrative fee which was another of Newsome's brazen and shameless lies, because he signed the order denying the administrative fee that day. It was appealed to Bankruptcy Appellate Panel, which affirmed , and it was appealed to the Ninth Circuit Court of Appeals **No: 01-17516 On that day April 25, 2001 , judge Newsome saying that the "estate had waited long enough "ordered petitioner's securities sold which generated $368.200 because of the drop in the stock market. Of that Davis received $. 289.500 , Spear $50.000, and the creditors who were discharged many years ago received 0. This was as brazen a case of theft and extortion as one is likely to find in a criminal matter,.**

In addition to extorting and stealing petitioner's assets, this bankruptcy mafia or gestapo consisting of opponents Newsome* and Davis have caused great harm to petitioner's personal life, family life and professional life. Some of it is even to painful to think about. Newsome and Davis with knowledge that it is false, that they are lying intentionally and maliciously informed petitioner's grown children, her daughter a distinguished nationally known physician, married to a college dean and her son an attorney partner in a New York City , married to an attorney , that their mother is a criminal and committed bankruptcy fraud. Just as petitioner did not know what sort of crooks and depraved predators she would encounter in opponents Davis and Newsome, others can not imagine that either. Opponents Newsome and Davis have insisted in falsely ,with knowledge that they are lying ,maliciously and deceptively and with the intent to cause harm, of asserting that petitioner is currently in bankruptcy . This of course has interfered with all aspects of life : entering into contract, business, credit, social standing, litigation , social standing. The opponents also invaded all aspects of petitioners privacy. All these were deliberate acts of intimidation as well as gross malicious prosecution, to instill fear in petitioner , and to show petitioner that the opponents prevailed. They caused all this harm simply because they could.

All the decision by opponent Newsome have been appealed and are subject to this petition for certiorari, such as <u>the extortion of</u> petitioner's assets. . The <u>giving away</u> of petitioner's assets to Davis and cronies was rejected for appeal, as not being ripe for same, because the order was titled "interim". This Honorable Court is asked for a Writ of Certiorari to the Ninth Circuit Court of Appeals to return petitioner's extorted assets , because petitioner's assets were unlawfully extorted without right or privilege prior to the "give away".

*Despite being a federal employee and hired as a judge, he is really " an opponent on the public payroll , who practices law all the time on behalf of those favored by him. That is the substance of the reported complaint about him in *Re: Charge of Judicial Misconduct" 62 F 3rd, (9th Cir. 1995).* He should have been gone a long time ago. Throughout the statement of facts petitioner referred to him as "judge" only for clarity. He is unfit to be a judge.

Discussion

This Honorable Court has agreed to review a bankruptcy matter in the next term. Petitioner prays that the Court will grant the writ of certiorari covering another pressing matter: the corruption within the bankruptcy system, judges , attorneys , trustees.

This Court will review a bankruptcy matter next term, regarding an issue not on point with the present matter. But there is another issue of conflict within some bankruptcy courts, attorneys, debtors , creditors, and the United States Congress: the corruption of the system. Where the system is corrupt, is does not serve the people it is designed to serve: debtors and creditors , but rather the "gangs" of preferentially hired trustees, attorneys, and some judges .A bankruptcy "mafia" One can not speak about corrupt courts in any other medium, not criminal court, not tax court, not family court ,not civil courts, because they are not. the corrupt bankruptcy courts appear to function in a vacuum where they do not expect accountability. **This matter is about such a court.** The Oakland California bankruptcy court and three opponents: he ignoble judge Newsome, the phantom "trustee" Spear who sells his name, and insider connections ,and his stand in Dennis Davis a real swindler. Bankruptcy is a protected right ; the "mafia" is not.

Petitioner was denied due process and equal protection rights, was denied the rights to an unbiased court, and was subject to an illegal and unconstitutional bill of attainder.

Petitioner was victimized by gross, brazen and repeated violations of her Constitutional rights There was no trial , no evidentiary proceeding, no access to the courts, denied any access by a depraved predator judge Newsome, never listened to, there was no fusion of any legitimate interest or standing in this matter , with the case itself. The first time petitioner encountered Newsome he said he would take her assets and give them to his cronies Spear and Davis, and he did that. Rights are irrelevant to the mafia. In *United States v Krass, 409 US 434 (19730* this Honorable court held that "bankruptcy has no rights ; the rights belong to the individual. This Court has also defined these individual rights as a property interest encompassed in the Fourteenth Amendment right to procedural due process for a property right already acquired. *Board of Regents v Roth 408, US r64 (1972), Perry v Sinderman , 408 US 593 (1972) , Fuentes v Shevin, 407 US 67 91972) , Goldberg v Kelly 397 US , 254 (1970).*

The holding in these cases is that before property or a property interest is seized , fundamental due process requirements demand a hearing like a mini trial with witnesses and the opportunity to cross examine .In the present matter there has been no evidentiary hearing, no mini trial, no witnesses and no evidence . Just extortion of petitioner's assets and theft. In *Fuentes* supra the Honorable Justice Stewart noted: " no later hearing and no damage award can undo the fact that the arbitrary taking that was subject to the right of procedural due process ,had already occurred. ". The actions by the opponents violated due process and the equal protection clause. In *Bush v Gore 531 US 98, (2000)* , this Honorable Court held that no "amount of excuses may justify a due process violation. "The action by the "bankruptcy mafia" and the ignoble Newsome, are the equivalent of a an impermissible and illegal bill of attainder. It is inexplicable that the reviewing courts in their haste to affirm each other and the lower court, whether or bias or disinterest, instead of acting in defense of the Constitution and the Bill of Rights, chose to ignore the gross violations of petitioner's rights, and what resembles a bill of attainder. In each pleading , in each brief petitioner pointed out the violations of her rights , that there had never been an evidentiary proceeding , that opponent Newsome did not read the United States Constitution, but rather the Rules of the Third Reich, and that he also violated the bankruptcy codes. An unbiased court? Opponent judge Newsome himself would agree that he is biased against petitioner,. He is also a malicious, sexist, lawless ,antisemitic, abusive , corrupt , predator. In *Tumey v Ohio , 273 US 510 (1927)* this Honorable Court held that "the rule has been settled for almost a century that a party is entitled to an impartial judge, no matter what. Did not happen in the matter at instant. **The assault on petitioner's Constitutional rights, the judicial abuse and misconduct against her , the illegal bill of attainder, the extortion and theft of her assets impoverishing her, merit the assistance of this Honorable Court through a writ of certiorari.**

Despite the false allegations by the profiteering opponent, there were no irregularities in the scheduling on the chapter 7 petition.

The bounty hunting opponent made false allegations about the assets on the chapter 7 petition. These allegations were self serving because they have a corrupt judge on the team .On the chapter 7 petition (Ap 1) the following assets potential assets and exempt assets are scheduled: The ex husband as an obligor, the Trust in petitioner's possession, and the bank conversion claim. Former trustee Field, an attorney, member of the DC Bar and preferentially hired as a trustee for more than twelve years told the court that he had diligently investigated this matter (.App 3)

On the same day as the "341" hearing, May 1, 1996 the former trustee filed the interrogatories, describing the " bank claim" which is about - a conversion of$ 96.500 (App.2) belonging to petitioner, dismissed at the time, and of course appealed . On the same day, May 1, 1996 the former trustee Scott Field Esq. also filed a "No Asset Distribution Report " with the bankruptcy court , (App. 3)**advising the court that he had conducted a thorough and diligent investigation into this case, made no distribution, and wishes to be dismissed by the court..** The " bank claim" was reinstated by the Appellate Court on May 31, 1996 .(App. 4) **The chapter 7 case was closed by the bankruptcy court on July 7, 1996.** (App. 5)

The scheduled property , exempt or otherwise , were unequivocally clearly, and knowingly abandoned by the former trustee.

11 USCA # 554 holds that property in an estate at the closing of a case by the court are considered abandoned to the debtor, and are considered administered forthe purpose of 11 USCA # 350.Once abandoned the property is removed from the control of the bankruptcy court and returned to the control of the debtor as though no bankruptcy had occurred. 11 USCA #541 (a), 554. Although filing a "no asset report " by a trustee exhibits the requisite intent to abandon the property this abandonment by operation of law can not be considered final until closed by the court.*Behrens v Woodhaven Ass., 87 B.R. 971 (1988), In Re : Dlugopolski, 67 B.R. 122 91986).In Re: Reed, 940 F 2nd, (1991).* Once an abandonment occurs , it is irrevocable *Killebrew v Brewer, 888 F2nd 1516 (1989) In Re: Enriquez 22 B.R. 942 (1982), In Re: Nebel 175 B.R. 306(1994).*The abandonment is irrevocable even if there is a subsequent discovery that the property had greater value than previously believed. *In Re: Wornell, 70 B.R. 153 (1986).* 11 USCA #554.
The property scheduled on petitioner's chapter 7 petition was knowingly abandoned by former trustee Field. Once the property is abandoned under 11 USCA # 554, the trustee has no further involvement with the property. **Abandonment is irrevocable after one year. *In Re: Ford 159 B.R. 590, (1993).*** Former trustee Field, an attorney, one of those preferrentially hired individuals, who has been a private trustee for about 10 years, despite the rules calling for one year service only, and who is a partner in an accounting firm brockering bankruptcy business, knew all of that- all that there is to know about the process. Therefore he acted deliberate and with knowledge in the abandonment.

The case was wrongfully reopened through fraud and deceit , and a promise of a bribe, violating the bankruptcy rules on reopening, on laches , and petitioner right to due proces: notice and an opportunity to be heard.

When former trustee Field abandoned the possible assets of the 7 estate, and the court closed the case on July , 1998 the abandonment was irrevocable pursuant to 11 USC # 554. Pursuant 11 USC # 541 (a) and # 554 ,the abandoned property is returned to the debtor as if no bankruptcy had occurred. The former trustee Field knowingly, intentionally and clearly abandoned the property. In abandoning the property and what was scheduled on the petition (App 1) former trustee Field, abandoned contacting petitioner's scorned and angry former husband who is listed as an obligor , as he was indebted to petitioner for a significant sum of money. Had he done so they would have known each other. 11 USC # 350 holds that a closed and administered bankruptcy case may be reopened to accord relief to the debtor or for other causes. It is inconceivable that other causes includes a scorned , angry, despised angry former husband who is by then a disbarred attorney, who promised former trustee Field a bribe to seek reopening of the closed case for harassment purposes. For him -less threatening than stalking. On April 27, 1998 (App6) the ex spouse sent a letter to Field -which they both knew was false- telling Field that when petitioner claimed the on the petition two years before that the "bank conversion claim" was dismissed , it was really not. (App 4 it is a reported case when it was reinstated on May 31, 1996). On April 28 , 1998 former trustee Field filed a Motion to reopen(App 7) in which he identified himself as "the trustee" despite having been dismissed almost two years before , and having no standing, and asked that the discharge be vacated Petitioner had no notice. Field told the court that he is acting on behalf of an interested party, and that there might be **additional assets of he estate.** There was some marital personal property left behind in Buffalo NY, but that was subject to the court's jurisdiction there. Did not belong to petitioner. NY is not a community property state. **Former trustee Field did not make any claims or allegations about the scheduled property on the petition.** The bankruptcy court in Maryland, judge Kier, never scheduled a hearing, never asked former trustee Field how come he is "trustee" in case that he closed two years before and dismissed him, who made him trustee again, and if one is "trustee" that means that the case has not been closed, so why reopening? Is 'trustee" a honorific title?

The case was reopened on May 7, 1998 (App 8) to administer **"the additional assets of the estate.** This reopening has been prostituted by the Oakland bankruptcy court "mafia or gang " and turned into an instrument of terrorizing this petitioner for the past five years unlawfully stealing her assets , impoverishing her and giving them to the bounty hunters. The Honorable Justice Clarence Thomas has noted in *Taylor v Freedland & Kronz et al. 503 US 638 (1992)* , that bankruptcy court judges give these private trustees, a "second bite" of the apple. **This reopening represents that second bite.** The case was reopened through deceiving the court , even if the court did not mind being deceived , as long as the deceiver was from an approved list of deceivers. As a safeguard against bankruptcy cases existing in perpetuity, the doctrine of laches operates as bar against reopening. 11 USC # 350 (b). Abandoned assets are administered for purposes of #350. Congress has enacted a statute which makes even a fraudulently obtained discharge uncontestable after one year. 11 USC # 727 (e).
In *Re: DeVore 223 B.R. 193 (9th Cir. BAP 1998)* the issue of notice of the intent to seek reopening and motion to reopen is of concern to the court and the requirements of due process. The court held that notice by first class is sufficient. But in the present matter there was no notice, and no time and opportunity to be heard and to respond. Therefore petitioner had no prior knowledge of the reopening, no opportunity to respond, and was not heard: the reopening was ex parte. In *DeVore* supra the court further held that the reopening of a case even for a valid reason , does not negate the abandonment, and the abandoned assets cannot be brought back into the estate. The court-the Bankruptcy Appellate Panel held that reopening of a closed case is a mere ministerial act, allowing the files to be retrieved from the stacks of closed cases.
In *Re: Germaine 152 B.R. 619 , (9th cir,. BAP 1993)* the court held that reopening by itself has no legal significance , and determines nothing regarding the merits of the case. The points made by the court in *DeVore* are fully applicable to the present matter: all the assets were listed on the schedules and known to the trustee when he filed the "no assets report", and were abandoned. In *DeVore* the trustee tried to say to the lower court that the reopening was for "newly discovered assets of the estate " something he never repeated to the Appellate Panel. This is exactly what former trustee Field had said and done in the present matter. The holding of *DeVore* **is that the order of reopening does not bring abandoned assets back into the estate. The Oakland bankruptcy mafia needs to know that, and return petitioner's extorted and stolen assets.**

The doctrine of laches.

The equitable doctrine of laches has as its goal the prevention of prejudicial delay in the bringing of a proceeding. 11 USC# 350 (b) holds that a case may be reopened to to accord relief to the debtor or for other cause. The *Committee on the Judiciary , Senate Report No. 95-989, subsection (a)* provides that though the court may permit reopening of a case , laches may constitute a bar to an action that has been delayed too long. In *Beaty v Selinger 306 F 3rd 915 (9th Cir 2002)* the Court of Appeals identifies two fundamental tenets of the bankruptcy law. The first is -quoting this Honorable Court in *Katchen v Landy , 382 US 323 (1966)* " a chief purpose of the bankruptcy laws is to secure a prompt and effectual administration and settlement of the estate of all bankrupts within a limited period" The second is the understanding that a bankruptcy court is a court of equity and should invoke equitable principles and doctrines , refusing to do so only where their application would be "inconsistent" with the Bankruptcy Code. *In re Myrvang , 232 F3rd , 1116, 1124 (9th Cir 2000)* (citing *SEC v United States Realty & Improvement Co. 310 US 434 (1940))* Bankruptcy courts are "essentially courts of equity. "*Katchen* supra .These two principles combine to create a presumption that the equitable doctrine of laches , which has as its goal the prevention of prejudicial delay in the bringing of a proceeding , is a relevant and necessary doctrine in the bankruptcy context. The doctrine of laches is primarily concerned with prejudice. The matter at instant was bared from reopening by laches. The former husband was scheduled on the petition as an obligor therefore the former trustee Field had not only an opportunity but also a duty to contact him and get his story. He did not , and knowingly abandoned the assets.(App 3) His motion to reopen the case ex parte (App 7) was fraudulent. He lied to and deceived the bankruptcy court(even if the bankruptcy court did not mind being deceived), he had no standing, and is an all around crook. He caused harm to petitioner. Laches focuses on harm caused by delay . *Maksym v Loesch 927 F 2nd 1237, (1991).* Phrases such as "at any time' that attach to bankruptcy rules does not mean "at any time no matter what and no matter how inequitable. *In Re Beaty 268 B.R. at 849 (BAP).* **Petitioner has lived a more than five year nightmare since that fraudulent reopening, and had her assets stolen under the guise of authority. That is prejudicial and bared by laches.**

The Court of Appeals misinterpreted, misstated, misapprehended and misapplied the facts and the rules on abandonment of assets and closing of bankruptcy cases , the rules on reopening of closed bankruptcy cases, while trivializing the facts in this matter to support a predetermined agenda based on bias.

The assets listed on petitioner's asset schedule were unequivocally and uncontrovertibly abandoned by the former trustee. There are numerous facts in evidence to support this statement., to merit space to state them all. The former trustee knew it, and everyone reading the documents knows it. In the 50 word or so opinion by the Court of Appeals Panel , the Court stated: **Even if we were to find that the assets were abandoned , the case was properly reopened, therefore it does not matter. Besides being patently false,** this is an outrageous statement of disregard, disrespect and bias, and factually ridiculous, analogous to the medical model holding that since an individual might die in ten or twenty years anyway, dying or being murdered now is of no consequence. Petitioner believes that the Court of Appeals has a duty to review each element of a case before it, and make an accurate and definitive finding for each issue on appeal. **The assets were abandoned, and the case illegally, fraudulently and improperly reopened despite the Appellate Panel's statement.**(a) Had former trustee Field Esq. not abandoned everything in the case, he would have known the former spouse who is listed on the schedule as an obligor, and the former spouse would not have had a reason to contact former trustee Field two years later.(App 6) (b) When Field filed the Motion to Reopen (App. 7) he did not allege to the court any infirmity in the scheduled assets or potential assets. (c) Field lied to the court stating he is the trustee, when he was not having -been dismissed two years before.(d) When Field lied to the court and represented that his reopening was on behalf of an interested party, the court had reason to assume it was the debtor or a creditor, not a bribe paying false informant. (e)The bankruptcy rules limit reopening to one year after closing (f) thereafter the doctrine of laches applies. (g) to seek reopening of a case one needs standing ,as in all legal matters-to be directly affected - which in bankruptcy is limited to the debtor or in some cases a creditor.
(h) a scorned despised lying ex spouse that offers a bribe does not qualify for standing, (i) The order reopening did not authorize the "second bite of the same apple " but rather authorized the administration of additional assets . **The Court of Appeals biased statement, regarding abandonment and reopening was frivolous , imprecise, and inaccurate.**

The Max Family Trust was fully scheduled on the petition, was abandoned, but is also exempt under Maryland law.

The State of Maryland is one of many states including California that do not participate in the federal bankruptcy exemptions, but rather has it's own.(App 27) and Maryland law is the law of the case. What is exempt from any judgment and the bankruptcy estate is an IRA , or some other retirement plan, and there is a limited homestead exemption. Petitioner's IRA was titled the trust, as was the apartment in Florida-the equity was minimal, not above the permitted exemptions. Both of those along with another marital distribution came to petitioner pursuant to a Domestic Relations Order of the New York State Supreme Court, County of Erie . Pursuant to the Federal Domestic Relations Tax Reform Act of 1984 all of the above mentioned assets were free of tax obligations by petitioner, therefore suitable to be in the same name, while separately identifiable. When counsel filed the chapter 7 petition on March 26, 1996 he assumed the exemption. In *Taylor v Freedland and Kronz , 112 S. Ct 1664 (1992)* this Honorable Court held that assets are exempt if the debtor thinks they are exempt, even if not exactly stated as exempt , but the totality of circumstances so suggests and that the filer believes they are , therefore they are .Petitioner believed they are, therefore they are .After reopening there was no allegation from former trustee Field about the trust .The ignoble judge Newsome had promised his cronies-bounty hunters the assets from the trust, (whether he personally benefits petitioner does not know as yet) so he just started saying that the trust was not scheduled, petitioner committed an illegal act , therefore the assets belong to the cronies. This without any evidentiary or fact finding hearing, with witnesses -a mini trial , just pronouncements. This is an illegal nazi like seizure , a violation of procedural due process entitlement .*Kelly v Goldberg 397 US 254 (1970), Fuentes v Shevin , 407 US 67 (1972),Perry v Sinderman 408 US 593, (1972), Board of Regents v Roth , 408 US,564 (1972).* The predatory bankruptcy mafia concluded that petitioner, a pro se litigant, without counsel, new to the state , in personal deep despair , was an easy prey for extortion and theft. Robbers in dark alleys, employ the same methodology to locate their prey. There was no wrong doing on the part of petitioner, nor is there such an exception in the statutes. Since the founding of the Republic states have had their own laws to be followed. Starting with *Section #34 of the Federal Judiciary Act of September 24, 1789* , and *Erie Railroad v Tompkins, 304 US 64 (1938).*In *Swift v Tyson 41 US 1 (1841)* This Court held that judges do not make laws they follow laws made by the legislature.

Exemptions: Maryland and California laws.

11 USC $ 522 provides for standardized bankruptcy exemption. Maryland is one of a majority of states that have enacted "opt -out" statutes. Therefore bankruptcy filers in Maryland are prohibited from claiming the exemptions enumerated in 11 USC #522(d), and must comply with the Maryland exemption rules. Since this case was filed in Maryland , the law of the state of Maryland applies. Pursuant to *Maryland's Code and Judicial Proceedings # 11-504 (h)* **in addition to other , exempts an interest in a retirement plan, qualified under the various tax codes, as amended by the United States Internal Revenue Code in 1994 and various titles, and is mandatory**

11-504 (d) Waiver: A debtor may not waive by cognovit note or otherwise the provisions of subsection (h) of this section.

11-504 (f) any debtor domiciled in Maryland may exempt interest in real property of $3.000 even if the property is located in another state. It is the public policy of Maryland to protect from creditors certain assets set aside to support individuals financially in retirement , and there is no dollar limit on that State exemption. In *Re: Solomon, 166 Bankr. 832, (Bankr. D. Md)* aff'd. *173 Bankr 325 (D. Md. 1994).* Exemptions under Maryland law should be liberally construed . *In Re: Solomon* supra, *Muhr v Pinover, 67 Md 480, 10 A 289 (1887), Darby v Rouse, 75 Md. 26, 22 A 1110 (1891), Fowler v State ex rel Gray, 99 Md. 594, 58 A , 444 (1904).* Debtors who file in Maryland must claim exemptions pursuant to Maryland law . *In Re Canelos , 216 Bankr. 159 (Bankr. D Md. 1997).*The State of California likewise exempts retirement and pension plans and interest in a homestead. The California retirement exemption is likewise not limited in dollar amount , and the homestead exemption is much more generous at least- $45.000.The retirement funds exempted are at times invaded for contemporary use as permitted under the various Internal Revenue Service programs. Petitions may be amended to include previously omitted exemptions or a change in circumstances. Petitioner's IRA titled in the Trust was scheduled on the original petition. Opponent bankruptcy judge Newsome had decided , in response to a summary judgment motion filed by petitioner, just to get away from him, that petitioner's assets in the Max family Trust including her IRA should be given to his cronies something he said he would do the first time petitioner encountered him. To facilitate his misconduct he created two fraudulent constructs. He falsely alleged bad faith and fraud in petitioner's original chapter 7 schedules, even though that was a blatant lie on his part. Those schedules were prepared by a very

reputable law firm in Rockville Maryland that specialized in financial matters including bankruptcy , and the attorneys were presumptively competent and honorable. And the ignoble opponent judge Newsome and his corrupt cronies therefore can ignore the law of a sovereign state, and say that because in his corrupt opinion petitioner did not "properly schedule" the IRA and the trust , therefore her exemption is denied. Although stated before, it bears repeating that at the first hint of an allegation -albeit false-that there was an irregularity in the chapter 7 schedule, petitioner filed a motion to withdraw the petition and vacate the discharge (App 17, 18) which was ignored, not scheduled, not acted upon, and opponent Davis told another court that petitioner does not understand and does not know what she is speaking about. The ignoble opponents : Newsome, Spear and Davis conspired to steal petitioner's assets so she had to remain exactly in the place and position that she was most vulnerable to extortion and plunder. Since there had never been a fact finding or evidentiary hearing in this matter, what the ignoble judge Newsome decided in his bunker was determinative. There is no such preemption or exception in the statute. Nor is there any language in the statute that a bankruptcy judge may decide to extort confiscate and give those exempt assets that belong to a litigant , to his "favorites". What is astonishing and incomprehensible is that the District Court affirmed this. So did the Court of Appeals Panel. There is evidence to suggests that neither the District Court nor the Court of Appeals reviewed de novo, especially in a matter where there is no fact finding evidence , no trial, no proof for the allegations. Just pronouncements. Opponent judge Newsome * had also alleged that because after the chapter 7 case was closed by the court in on July 7, 1996 and petitioner had used funds from the trust and her IRA, which were not taxable to her, she somehow lost her right to the exemption at least in his rule book. In *Re Kim , 257 B.R. 680, (9th Cir. BAP 2000),* the court held that the petition date is the relevant date for determining property of the estate. Subsequent changes in form do not bring the property back in to the estate. The bankruptcy court so held, and the BAP affirmed.

* Petitioner identifies judge Newsome as an opponent, because that is what he is . He practices law, argues the cases , is insulting, abusive, does not allow people to speak . In this long nightmare petitioner has never heard the phantom trustee or his partner-counsel ever speak a full sentence or make an argument. There are numerous complaints about this to the Judicial Council one published *In Re: "Charge of Judicial Misconduct" 62 F 3rd , 320 (9th Cir 1995).* (App 33.) Newsome proved to be a sexist depraved predator who with his cronies caused great harm to petitioner.

In *Re: Arnold 252 B.R. 778 (9th Cir. BAP 2000)* the issue of delay in filing for exemptions was addressed, and the Court held that even where there are creditors , they are not prejudiced by that . In *Dudley v Anderson 249, 249 F 3rd 1170 (9th Cir 2001)* the issue is that the Dudley's had withdrawn $107.000 from their retirement fund, to pay ordinary living expenses , and said they would continue to do so .The Court of Appeals reversed the lower courts alleging that this invalidates the integrity of the retirement fund exemptions , and held that the IRA's were designed principally rather than solely for retirement purposes. **Petitioner's prayer is for this Honorable Court to return her wrongfully extorted and stolen retirement funds and all assets to her.**

The ignoble judge Newsome employed an unconstitutional "bill of attainder "against petitioner. His judicial misconduct.

Since there were no parties with legal standing involved in this matter, the opponents including Newsome with his cooperation and participation all conspired to extort and steal petitioner's assets with Newsome had given himself permission to do that, and to punish petitioner., just as he routinely gives himself permission to practice law and represents his cronies. Newsome's conduct is the subject of many complaints , one is reported : *Re Charge of Judicial Misconduct , 62, F3rd 320 (9th Cir 1995)* .Therefore a review of the record in the present matter ,the overwhelming conclusion presents itself that opponent judge Newsome 's prosecuting, persecuting and terrorizing petitioner for several years , while denying her any and all legal rights was a form of a bill of attainder . That is a violation of the United States Constitution.. While he could not send petitioner to the guillotine, he could steal her assets to deprive and impoverish her, could deny her legal rights, participate in her being stalked and her residence burglarized. He could insult her, falsely accuse her of wrongdoing. This started as soon as petitioner made the colossal mistake of voluntarily seeking a transfer to this court. He announced his plan the first time petitioner encountered him, that he plans to take her assets for Spear , Davis and who knows who else- there are no people of legitimate entitlement, and proceeded to do so. How the District Court avoided addressing this gross abuse of judicial conduct, and how the Court of Appeals ignored it, is incomprehensible. Certainly no one met their responsibilities. Regarding the ignoble Judge Newsome the Court of Appeals in it 's less than 50 word opinion (App a.) noted that regarding the conduct of the ignoble Newsome: petitioner chose to transfer her case there". True petitioner elected to transfer to Oakland not to Newsome, because she believed a court is a court, not that some courts are dens of inequity and employ monsters.

The closed a bankruptcy case was reopened based on lies and fraud, consequently there was no one with standing That represents an Article III violation and voids the decisions therein

Standing in a bankruptcy matter comes from being the debtor or an omitted creditor. The case was reopened on false information to the court, and there was no one with standing there. The court in Maryland gave the former trustee "the second bite of the apple" without meeting the minimum standard of standing. Informants that offer bribes do not count "The very essence of civil liberty consists in the right of every individual to claim the protections of the laws whenever he receives an injury "*Marbury v Madison, 1 Cranch 137, 163 2 L. Ed 60* A court can only act as it is called upon to adjudge the legal rights of litigants in actual controversies. *Liverpool NY & P Steamship Co. v Commissioners of Emigration, 113 US 33.* In *Sierra Morton , 405 727 (1972)* this Honorable Court reiterated the requirement of standing by holding that " a complainant must show a direct and personal harm by the action he or she is complaining about to have standing." Bankruptcy -as this Honorable Court defined it-has no rights ; it is about debtors and creditors. *United States V Krass 409 US 434 (1973)* and standing comes through being a debtor or creditor i.e. a party in interest. Although opponent judge Newsome extorted petitioner's assets through deceptively speaking of an "estate", -he did not want his corruption to be found out too easily- there is no estate, there was no estate. The estate was dealt with more than seven years ago. This is about deceit, fraud and theft. Had there been one they would not have received anything anyway because as this Honorable Court will learn , the large amount of money stolen from petitioner, was all given to the other coconspirators. Whether and how Newsome benefits himself , petitioner does not know. But there was no one with standing to pursue this matter an Article III requirement **Therefore all of opponent Newsome's decisions should be voided, and petitioner's assets returned to her.**

Criminal conduct, the rapacious plunder of petitioner's assets, fraud under the guise of authority.

This case was reopened through fraud and deceit and continued through burglary and terror to criminal extortion and theft. It was a march to steal the money for the cronies. While the corrupt opponent Newsome falsely accused petitioner of misconduct by not scheduling the trust, he did not ever permit a legal proceeding to prove otherwise. When he even hinted at wrongdoing , petitioner attempted to exit the system.(App 17, 18)

petitioner sought to withdraw the chapter 7 petition and have the discharge vacated , which the corrupt opponent Newsome- surely in ex parte consultation with the cronies, the recipients of petitioners stolen money, refused to even schedule. Like all extortion fraud and and theft petitioner was "set up" for the ultimate outcome. **Petitioner is strongly persuaded and can prove it , that Newsome's theft of petitioner's assets, and his gifting Davis and Spear with it , on facts that he know with 100 % certainty to be false, is a criminal act under the guise of authority. This is much like Nazi Germany. Ultimately the nazi extorted and stolen property had to be returned and so must the cronies in the present matter.**

Under duress, threats and terror , on July 1, 2000 petitioner was forced to turn over her exempt assets including her IRA, securities worth about $450.000-$475,000 (App) 23. What became of them ? they were sold -the market had dropped some and all this money was given to Davis , Spear and the burglar as "fees" Whether the ignoble Newsome received a share petitioner does not know at this time. To cover up his misconduct the depraved predator Newsome, called these two coconspirators "the estate". Had there been a legitimate estate it would have received 0 The criminal conspiracy is also proven by the fact that in this stolen money award there is a fee of $150.000 for a trial. One should dare these crooks to prove that a trial ever took place, or even an evidentiary hearing. Petitioner believes that the extortion of her assets under false pretenses, was a criminal act and that all coconspirators are equally accountable.

Dennis Davis had filed a fee request shrewdly titled - after all he has been swindling Courts and every individual possible, for decades , see *In Re: Boyd 243 B.R. 756 (9th Cir 2000)* - interim fee request, therefore procedurally could not be appealed. Petitioner tried. That "fee request , a criminal evidence document of false entries, double, triple and quadruple requests for the same thing, was 120 pages lof convolution to cover the fraud. Petitioner reconfigured this request into 50 coherent pages , and it became clear why the convolution in the the first place: **it was all fraud.** This included billing for 24 hours per day, double ,triple , and quadruple But it was written pro forma, with the knowledge -and prearrangement that neither the $150.000 for an illusionary trial , or $2200 for defending Newsome when petitioner sought his recusal, -a professional violation, that no one cares about- or fees for 16.800 copies, or anything else would not be questioned. The arrangement was that they would receive all of the assets stolen from petitioner.

There is no legitimate entitlement for even one dollar. What did they merit fees for? For getting themselves fees? for bounty hunting? Whom were they representing? Who had standing? No one. This was all an imaginary construct, by corrupt depraved predators to plunder petitioner's assets. Petitioner did not have counsel throughout these proceedings, because as previously indicated petitioner had contacted and met with 10 attorneys -one the chair of the bankruptcy section for the particular area, who all declined for the same reason. This trio consisting of the ignoble Newsome , Spear and Davis constitute a "mafia" o a "gang " and getting involved with them, would adversely affect their ability to earn their living. The kind of abusive predator Newsome is, is illustrated in *Re: Charge of Judicial Misconduct, 62 F 3rd 320 m, (9th Cir 1995),* the complainant an attorney, author , law professor. After petitioner's assets had been extorted, she had the opportunity to retain counsel : the opponent to Davis whom Davis tried to swindle along with District Court judge Breyer, in *Boyd* supra., which would have been great. But petitioner lacked the funds for legal fees. Counsel asked the ignoble Newsome for some of petitioners assets as legal fees, and Newsome refused. After the ignoble Newsome's decision that the assets of the Max Family Trust belong to his cronies, petitioner filed for the IRA exemption, which he denied -after all he had made arrangements for petitioner's IRA, and who should have it. That was appealed to the District Court which affirmed. Petitioner also sought- she had appellate counsel for a short while- an administrative fee for maintaining the apartment in Florida for all these years. Newsome denied and it was appealed to the Bankruptcy Appellate panel for the Ninth Circuit. The BAP affirmed. It is obvious that the bias that this Honorable Court and the Honorable Justice Thomas discerned in *Taylor v Freedland & Kronz , 112 S .Ct. 1664 (1992)* in favor of trustees by and for bankruptcy courts , falsely putting forth a theory-never tested - that they are the keepers of the dam on an overwhelming flood of corruption and fraudulent filings is visibly at work here . Despite the fact that the gross corruption is in the keepers of this dam Congress has been trying to legislate against these corrupt attorneys and judges -the corrupion could not function without the corrupt judges - who in Congress were referred to as the "bankruptcy gang." *House Report 95th Congr[illegible] , first and second session (1984).* The intentional or negligent failure by the reviewing appellate courts to be analytical, to examine, to follow the Constitution, the Rules and state laws is both inexplicable, and inexcusable. It might be to nurture collegiality.

Petitioner was entitled to oral argument pursuant to F.R.A.P. #34 and unlawfully denied same, to her detriment.

On January 28, 2003 petitioner received a notice from the Court of Appeals (App 31) informing her that all her appeals will be heard on March 13, 2003 at 9 a.m. in the Court House in San Francisco, and outlined the times allotted. Some 10 min per side, some 5 min. per side Petitioner requested additional time - this would be the first time she would be heard- and the request was granted on February 24, 2003, allowing an additional 5 min each side to each matter On March 3, 2003 petitioner was notified that there would be no oral argument. The Appellate Panel had decided to dispense with oral argument. This was a deeply detrimental act by the Appellate Panel , a decision possibly based on bias or because petitioner is a prose litigant , or the Court of Appeals had prejudged and decided to affirm. Petitioner assures this Honorable Court that she is very well spoken, holds BA, MSSS, JD and PhD degrees, is fluent and literate in several European languages, and is obviously expert in the present matter. All the pleadings, briefs, filed by petitioner are functional , no claim could be made that they are so extraordinarily complete that the full tableau was immediately discerned. Rule 34 provides that oral argument must be allowed in every case, unless a panel of three judges who have examined the briefs and the record and determine that oral argument is unnecessary because, (A) the appeal is frivolous, (B) the dispositive issues have authoritatively decided, or (C) the facts and legal arguments are adequately stated, and the decisional process would not be significantly aided by oral argument. None of the above statutory reasons were applicable in the matter at instant. The appeal is far from frivolous , the dispositive issues have been decided starting with the United States Constitution, but were not applied in the matter at instant, and although petitioner's brief adequately presented the facts , the crimes and abuses, she makes no claim to excellence in presenting this very important matter. The personal contact , hearing from an individual that is personally affected provides another dimension. " Many judges find that the opportunity for a personal exchange makes a difference in the result". *Report of the Commission of the Federal Court Appellate System , Structure and Internal Procedure: Recommendation for change. (1975).* The Appellate Panel abused it's discretion in denying oral argument.

Summary

Did a corrupt, malicious, Article I bankruptcy court judge, the ignoble R. Newsome , extort , seize, steal and convert petitioner's lawfully held assets , not on behalf of a party in interest-because there was none, but fraudulently and criminally gift a couple of coconspirators cronies with them and does this represent Constitutional violations and an illegal bill of attainder? -is the first question presented , and the answer is **yes.** petitioner was victimized by uncommon predatory depravity and malice. A reading of the very brief decision by the Court of Appeals is evidence that the Appellate Panel superficially skimmed over these appeals, was not interested in facts, law, Constitutional rights, since nowhere it is even mentioned. The decision holds incompatible and incoherent statements, limited to a line or two from the opponents filings. The Panel held that if they were to find that the assets were abandoned to petitioner , the court was still right in reopening the case. This despite the clear documentary evidence that this is not why the court in Maryland was asked to reopen two years later, and why it did. (App 7 &). On the original schedule of assets (App 1) petitioner's interest in them is listed as 0. Why? petitioner does not know. A law firm prepared it. perhaps a computer glitch. The Court of Appeals held this as some sort symbol of a misdeed of "hiding" The former trustee Field, an attorney and trustee for 12 years, had no problems questioning petitioner and preparing interrogatories, (App 2)and representing to the court that he had conducted a "very diligent inquiry" (App 3) and wishes to be dismissed. Pursuant to 11 USC # 704 the trustee has "a duty" to investigate the case, and he said he did. In *Sheehan v Lincoln National Life, 257 B.R. 449 (2001),* responding to a trustee's allegation of fraud regarding an omitted asset -an insurance trust, held that the intricacies of scheduling or even total omission of assets is not necessarily fraud. In this very frivolous and troublesome decision by the Court of Appeals, the Panel is trying to blame the victim for the crime. The Panel is also applying a double standard , in holding that despite the bankruptcy rules requiring that a "trustee " has a duty to investigate, , if he does not , it is the filer's fault. If one were to assume for the purpose of discussion, that this were a fact, the Court of Appeals still did not reach a rational and reasonable explanation as to why the ignoble Newsome could extort and steal petitioner's assets and give them to his "chosen people" The Court of Appeals also ignored the evidence that when she entered corruption hell in the form of the Oakland bankruptcy court and tried to withdraw the chapter 7 petition and the discharge, so that everyone would be where they started, the ignoble Newsome never even scheduled the motions(App 17, 18) .-he needed to steal her assets, and the Constitutional

violations either. Petitioner is seeking a writ of certiorari and to have her assets returned toher. Although as the Honorable Justice Stewart said in : *Fuentes v Shevin, 407 US 67 (1972)* "no later hearing, and no damage award can undo the fact that the arbitrary taking that was subject to the right of procedural due procees, had already occured. "

Conclusion

For various reasons, including the fact that bankruptcy is a federal matter, the Constitutional rights violations endured by petitioner, the implied bill of attainder, the disregards for the laws of another sovereign state-the State of Maryland, the corruption , preadtory depravity and cronyism of the bankruptcy court, the stealing of petitioner's asets under the guise of authority thereby impoverishing her, the attempts by the ignoble Newsome and his cronies to attach a condition of their own deisre to the Maryland exemption laws , while having waited almost two years for review by the Court of Appeals and receiving a short not on point, devoid of knowledge statement shameful in it's inadequacy, and at a time when this Honorable Court is going to review a bankruptcy matter in the coming winter term, and as the Honorable Justice Stevens said in *Florida v Rodriguez, 409 US 1, (1984)* ," as the court of last resort in the federal system , we hold supervisory authority , and therefore must occasionally perform pure error correcting functions in federal litigation. "
Petitioner prays that thiis is what the Honorable Court will do in the present matter , grant the writ of certiorari, and the hoped for disgorgement of petitioner's assets by the cronies will follow.

August 11, 2003

Submitted

Dr. Pepi Schafler